

HOUSE BILL NO. 198 GREY BILL: HB019803.ate

INTRODUCED BY K. PETERSON

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4 ABILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING A PUBLIC UTILITY'S POWER OF EMINENT DOMAIN;
5 CLARIFYING THAT A PERSON ISSUED A CERTIFICATE UNDER THE MAJOR FACILITY SITING ACT HAS
6 THE POWER OF EMINENT DOMAIN; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A
7 RETROACTIVE APPLICABILITY DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 NEW SECTION. Section 1. Power of eminent domain. A public utility as defined in 69-3-101, its
12 ~~affiliates, and its subsidiaries~~ may acquire by eminent domain, ~~as provided in Title 70, chapter 30,~~ any interest
13 in property, ~~as provided in Title 70, chapter 30,~~ for a public use authorized by law in the exercise of its duties as
14 a utility pursuant to Title 69 and in meeting state and federal obligations to provide service to provide service
15 to its customers or to provide other services in which the costs for those services are borne by the utility
16 customers receiving the benefit of the services.

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18 NEW SECTION. Section 2. Power to exercise eminent domain. ~~(1)~~ A person issued a certificate
19 pursuant to this chapter may acquire by eminent domain, ~~as provided in Title 70, chapter 30,~~ any interest in
20 property, ~~as provided in Title 70, chapter 30,~~ for a public use authorized by law to construct a facility in
21 accordance with the certificate.

22 ~~(2) The issuance of a certificate in accordance with this chapter conclusively establishes that a taking~~
23 ~~is a necessary public use needed to commence to construct the facility in accordance with the certificate and~~
24 ~~Title 70, chapter 30.~~

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26 NEW SECTION. Section 3. Codification instruction. (1) [Section 1] is intended to be codified as an
27 integral part of Title 69, chapter 3, part 1, and the provisions of Title 69, chapter 3, part 1, apply to [section 1].

28 (2) [Section 2] is intended to be codified as an integral part of Title 75, chapter 20, part 1, and the
29 provisions of Title 75, chapter 20, part 1, apply to [section 2].
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1 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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3 NEW SECTION. **Section 5. Retroactive applicability.** [Section 2] applies retroactively, within the
4 meaning of 1-2-109, to certificates issued after September 30, 2008.

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- END -

Amendments to House Bill No. 198
1st Reading Copy

Requested by Representative Mike Phillips

For the House Federal Relations, Energy, and Telecommunications
Committee

Prepared by Todd Everts
January 26, 2011 (10:21am)

1. Page 1, line 18.

Following: "certificate"

Insert: "if the person issued the certificate has obtained right-of-way agreements or options for a right-of-way from more than 75% of owners who collectively own more than 75% of the property along the centerline of the sited facility"

2. Page 1, line 27.

Insert: "NEW SECTION. **Section 3. Contingent voidness.** If a repeal of the provisions of Title 75, chapter 1, parts 1 through 3, or a repeal of the provisions of Title 75, chapter 20, parts 1 through 4, is passed and approved during the 62nd legislative session, then [this act] is void."

Renumber: subsequent sections

3. Page 2, line 1.

Strike: "after September 30, 2008"

Insert: "prior to November 1, 2008, and any amendments to those certificates issued on or after November 1, 2008"

- END -